



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 8, 1998

Ms. Linda Wiegman
Supervising Attorney
Office of General Counsel
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

OR98-0921

Dear Ms. Wiegman:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Texas Open Records Act. Your request was assigned ID# 114250.

The Texas Department of Health (the "department") received a request for several categories of information pertaining to a job posting and the selection process for the position. It is our understanding that the only documents at issue are the "completed second interview notes for each candidate by each of the interview panel." You assert that these records are protected from disclosure by section 552.122(b) of the Government Code.

Section 552.122(b) excepts from disclosure "[a] test item developed by a licensing agency or governmental body." In Open Records Decision No. 626 (1994) at 6, this office discussed what is included as a "test item" under section 552.122(b):

[T]he term "test item" in section 552.122 generally includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated. An evaluation does not necessarily constitute a test, however, simply because it is labeled as a test, because it is comprised of questions and answers, or because it involves some sort of scoring system. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis.

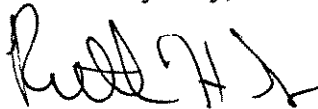
You submitted to this office copies of interview questions along with the written notations of the interview panel members.

Similar information was at issue in Open Records Decision No. 626 (1994). There were written examination questions, information pertaining to oral interviews, and handwritten notes by the interview board members about each applicant's "background, appearance, demeanor, and responses to questions." *Id.* at 7. This office determined that some of the written questions were "test items" within the meaning of section 552.122, but questions that subjectively evaluated, among other things, the applicants' judgement, general appearance, and planning and organizational skills, were not test items. *Id.* at 8. Also, the interview panel members' handwritten notes, which reflected their subjective evaluations of the applicants, were not protected from disclosure under section 552.122. *Id.*

We have reviewed the information submitted to this office and agree that questions 2 and 3, and the interview members' notes concerning questions 2 and 3, may be withheld from disclosure as "test items" under section 552.122(b). The other submitted information is not protected from disclosure under section 552.122 and must therefore be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 114250

Enclosures: Submitted documents

cc: Ms. Paula Anderson
1100 West 49th Street
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(w/o enclosures)